



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

November 14, 2023

By ECF

The Honorable Kenneth M. Karas
United States District Judge
The Hon. Charles L. Briant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: *Daniel Libit v. United States Military Academy et al.*, No. 23 Civ. 00845 (KMK)

Dear Judge Karas:

This Office represents the United States Military Academy (the "USMA" or the "Government") in this action brought by Plaintiff Daniel Libit ("Plaintiff") under the Freedom of Information Act ("FOIA"). This case concerns FOIA requests submitted by Plaintiff to USMA and the Army West Point Athletic Association ("AWPAA") seeking records concerning USMA's intercollegiate athletics programs.

USMA and Plaintiff are meeting and conferring regarding eleven (11) pages that were withheld in their entirety under FOIA exemption 5 and the attorney-client and work product privileges. As explained in the parties' last status update, USMA did not identify any records responsive to Mr. Libit's October 7, 2022 FOIA request (as further narrowed on November 21, 2022) that seeks certain emails of General Darryl A. Williams from an "army.mil" email account. USMA is now investigating whether it possesses responsive emails from any other email accounts used by General Williams during the relevant period for USMA work.

AWPAA is nearing completion of a second round of production, with the belief that all non-exempt records responsive to Plaintiff's requests and not produced in AWPAA's initial production will be included in the second production. AWPAA received several responses from submitting parties who have an interest in the content of the documents pursuant to FOIA Exemption 4 and has considered such responses in determining the scope of production. AWPAA believes those consultations are complete and will respond accordingly. If the status of those consultations somehow changes, AWPAA will promptly notify all parties. AWPAA is also completing additional searches for responsive documents to ensure that all non-exempt, responsive records have been or will be produced to Plaintiff following the parties' meet and confer discussions.

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The parties thank the Court for its consideration of this joint status report and propose to file their next joint status report within 60 days, or by Monday, January 15, 2024.

Respectfully,

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Southern District of New York

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